



RE: Activities list for OU3 negotiations

Polly Jessen to: Matthew Cohn

10/12/2010 11:13 AM

"Brooke McKinley", casey.padgett, "Jason Christensen", "Joan Card", "John Putnam", "Kevin Murray", "Lori Potter", Mia Bearley, "e-mail"

From: "Polly Jessen" <pjessen@kaplankirsch.com>
To: Matthew Cohn/R8/USEPA/US@EPA
Cc: "Brooke McKinley" <bmckinley@kaplankirsch.com>, <casey.padgett@sol.doi.gov>, "Jason Christensen" <jason.christensen@parkcity.org>, "Joan Card" <joan.card@parkcity.org>, "John Putnam" <jputnam@kaplankirsch.com>, "Kevin Murray" <kmurray@chapman.com>, "Lori

Matt,

Thank you for your response.

Polly

-----Original Message-----

From: Cohn.Matthew@epamail.epa.gov [mailto:Cohn.Matthew@epamail.epa.gov]

Sent: Tuesday, October 12, 2010 7:19 AM

To: Polly Jessen

Cc: Brooke McKinley; casey.padgett@sol.doi.gov; Jason Christensen; Joan Card; John Putnam; Kevin Murray; Lori Potter; Bearley.Mia@epamail.epa.gov; e-mail

Subject: RE: Activities list for OU3 negotiations

Polly EPA is happy to treat the material in accordance with Rule 408 and thus not seek its admission in any judicial proceeding. However, EPA cannot protect the material from disclosure to third parties. matt



RE: Activities list for OU3 negotiations

Matthew Cohn to: Polly Jessen

10/12/2010 07:18 AM

"Brooke McKinley", casey.padgett, "Jason Christensen", "Joan Card", "John Putnam", "Kevin Murray", "Lori Potter", Mia Bearley, "e-mail"

From: Matthew Cohn/R8/USEPA/US

To: "Polly Jessen" <pjessen@kaplankirsch.com>

Cc: "Brooke McKinley" <bmckinley@kaplankirsch.com>, casey.padgett@sol.doi.gov, "Jason Christensen" <jason.christensen@parkcity.org>, "Joan Card" <joan.card@parkcity.org>, "John Putnam" <jputnam@kaplankirsch.com>, "Kevin Murray" <kmurray@chapman.com>, "Lori

Polly EPA is happy to treat the material in accordance with Rule 408 and thus not seek its admission in any judicial proceeding. However, EPA cannot protect the material from disclosure to third parties. matt



RE: Activities list for OU3 negotiations

Polly Jessen to: Mia Bearley, Kevin Murray, casey.padgett,
e-mail

10/06/2010 12:16 PM

Cc: Matthew Cohn, "Joan Card", "Jason Christensen", "Lori Potter",
"John Putnam", "Brooke McKinley"

From: "Polly Jessen" <pjessen@kaplankirsch.com>
To: Mia Bearley/R8/USEPA/US@EPA, "Kevin Murray" <kmurray@chapman.com>,
<casey.padgett@sol.doi.gov>, "e-mail" <SKALLEN@utah.gov>
Cc: Matthew Cohn/R8/USEPA/US@EPA, "Joan Card" <joan.card@parkcity.org>, "Jason
Christensen" <jason.christensen@parkcity.org>, "Lori Potter" <lpotter@kaplankirsch.com>,
"John Putnam" <jputnam@kaplankirsch.com>, "Brooke McKinley"

History: This message has been replied to.

Park City Municipal Corporation ("PCMC") is prepared to respond to EPA's request for comments on the activities list distributed with Mia's message below as well as to provide a list representing PCMC's interests with respect to EPA's proposed Richardson Flat Site, Operable Unit 3 ("OU3"). However, prior to distributing this material, PCMC requests confirmation and agreement from EPA and each of the other recipients of EPA's request that:

(a) you and your client will treat PCMC's response and list, and any other communications among PCMC, EPA, United Park City Mines, BLM, the State of Utah, and/or any other later-identified participants related to EPA's proposed multi-party settlement agreement, as inadmissible conduct or statements under Federal Rules of Evidence Rule 408; and

(b) you and your client will maintain as confidential and (as applicable to the governmental agencies) protect such communications from disclosure to third parties to the maximum extent allowed by applicable open or public record laws, including FOIA.

Please respond to this message at your earliest convenience with either confirmation of this agreement or by indicating your client's inability or unwillingness to make this agreement.

PCMC looks forward to discussing EPA's proposed OU3 agreement and hopes for a mutually-beneficial resolution of watershed issues. Thank you!

Polly B. Jessen
Kaplan Kirsch & Rockwell LLP
1675 Broadway, Suite 2300
Denver, CO 80202
(303) 825-7000
www.kaplankirsch.com

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delete the original message.

-----Original Message-----

From: Bearley.Mia@epamail.epa.gov [mailto: Bearley.Mia@epamail.epa.gov]
Sent: Tuesday, September 28, 2010 3:54 PM
To: Polly Jessen; Kevin Murray; casey.padgett@sol.doi.gov; e-mail
Cc: Campbell.Carol@epamail.epa.gov; Christensen.Stanley@epamail.epa.gov;
Murray.Bill@epamail.epa.gov; Cohn.Matthew@epamail.epa.gov;
Bearley.mia@epa.gov; Hernandez.Kathryn@epamail.epa.gov;
OReilly.Maureen@epamail.epa.gov; Dalton.John@epamail.epa.gov
Subject: Activities list for OU3 negotiations

Hello all. Please find attached a cover letter and the promised
"activities" list from EPA. Thanks, and look forward to talking to all
of you soon.



RE: Activities list for OU3 negotiations

Mia Bearley to: Polly Jessen, Matthew Cohn

10/06/2010 02:34 PM

Cc: casey.padgett@sol.doi.gov "Kevin Murray", SKALLEN, Kathryn Hernandez, O'Reilly, Maureen, John Dalton

From: Mia Bearley/R8/USEPA/US
To: "Polly Jessen" <pjessen@kaplankirsch.com>, Matthew Cohn/R8/USEPA/US@EPA
Cc: casey.padgett@sol.doi.gov "Kevin Murray" <kmurray@chapman.com>, <SKALLEN@utah.gov>, Kathryn Hernandez/R8/USEPA/US@EPA, O'Reilly, Maureen@epa.gov, John Dalton/R8/USEPA/US@EPA

Thanks for your response, Polly. It would seem strategic for you to mark any documents of concern with a Rule 408 denotation. As for EPA's treatment of these documents, what I can say at the moment is that although there is no "settlement privilege" under FOIA (rather, Agency denials are based upon regulatory FOIA exemptions), we can certainly respect this interest ... let's work together to reach agreement on how to handle these confidentiality matters. After today, I will return to the office on Wednesday the 13th (tho I believe that Matt is back in the office on Tuesday, the 12th - and perhaps he may have additional guidance). Thanks again.

"Polly Jessen"	Park City Municipal Corporation ("PCMC") is pre...	10/06/2010 12:16:43 PM
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From: "Polly Jessen" <pjessen@kaplankirsch.com>
To: Mia Bearley/R8/USEPA/US@EPA, "Kevin Murray" <kmurray@chapman.com>, <casey.padgett@sol.doi.gov>, "e-mail" <SKALLEN@utah.gov>
Cc: Matthew Cohn/R8/USEPA/US@EPA, "Joan Card" <joan.card@parkcity.org>, "Jason Christensen" <jason.christensen@parkcity.org>, "Lori Potter" <lpotter@kaplankirsch.com>, "John Putnam" <jputnam@kaplankirsch.com>, "Brooke McKinley" <bmckinley@kaplankirsch.com>
Date: 10/06/2010 12:16 PM
Subject: RE: Activities list for OU3 negotiations

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Murray.Bill@epamail.epa.gov; Cohn.Matthew@epamail.epa.gov;
Bearley.mia@epa.gov; Hernandez.Kathryn@epamail.epa.gov;
OReilly.Maureen@epamail.epa.gov; Dalton.John@epamail.epa.gov
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